

**Notice of Allowability**

Application No.

09/900,230

Applicant(s)

KAISER ET AL.

Examiner

Art Unit

HUNG Q. PHAM

2168

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 09/08/2006.
2. ☒ The allowed claim(s) is/are 1-6, 8, 9 and 87.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.


Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413), Paper No./Mail Date 11/22/06.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

  
Hung Pham  
Examiner  
AU 2168

### EXAMINER'S AMENDMENT

- An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with applicants' representative, GRZEGORZ S. PLICHTA, on 11/09/2006.

- In the Claims filed on 09/08/2006, please:  
REPLACE claim 1 by the clean version (without strike-through and underlining markings), which was amended by the examiner as below:

*Claim 1. A method for matching user musical preferences, comprising:*  
*providing, from a user, a specific choice of user preferences in song content to a content provider;*  
*mapping the provided specific choice of user preferences in a song analysis and matching system using a set of fundamental musical properties that captures user preferences in song content;*  
*scanning a database using the song analysis and matching system to find other songs that have a similar mapping of musical properties; and*  
*playing automatically to the user other songs that have a similar mapping of musical properties;*  
*allowing the user to make decisions of the other songs;*  
*accessing a historical record containing at least one decision the user has made; and*  
*restarting the playing of a new song according to selecting said at least one decision in said historical record, wherein said playing of said new song results in re-capturing of musical properties of said new song;*  
*automatically running said re-captured musical properties through said song analysis and matching system; and*  
*returning a new play list of songs that correspond to said re-captured musical properties.*

### **REASONS FOR ALLOWANCE**

The following is an examiner's statement of reasons for allowance:

The closest available prior arts, Gjerdingen et al. [USP 6,539,395 B1] and Eyal et al. [USP 6,721,741 B1] also teach a method for matching user musical preferences. However, as in claim 1, Gjerdingen and Eyal fail to teach or suggest the steps of *accessing a historical record containing at least one decision the user has made; restarting the playing of a new song according to selecting said at least one decision in said historical record, wherein said playing of said new song results in re-capturing of musical properties of said new song; automatically running said re-captured musical properties through said song analysis and matching system; and returning a new play list of songs that correspond to said re-captured musical properties*. Therefore, the invention is allowable over the prior arts of record for being directed to a combination of claimed elements including the providing steps as indicated above.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."


### **Contact Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to HUNG Q. PHAM whose telephone number is 571-272-4040. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, TIM T. VO can be reached on 571-272-3642. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
HUNG Q PHAM  
Examiner  
Art Unit 2168

November 22, 2006